
HOUSE BILL No. 1248

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-8-19.8-23.

Synopsis: Viatical settlements. Requires certain disclosures by viatical settlement providers and viatical settlement brokers. Prohibits a life insurance company from selling a life insurance policy financed with the intent to be sold to investors.

Effective: Upon passage; July 1, 2007.

Ripley

January 11, 2007, read first time and referred to Committee on Insurance.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1248

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-8-19.8-23, AS AMENDED BY P.L.223-2005,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 23. (a) A viatical settlement provider or viatical
4 settlement broker shall, not later than the date of application, provide
5 to a viator a brochure approved by the commissioner and describing the
6 viatical settlement process. If a brochure describes only a viatical
7 settlement contract in which the insured does not have a catastrophic
8 or life threatening illness or condition, the brochure may use the term
9 "life settlement" in place of the term "viatical settlement".
10 (b) A viatical settlement provider or viatical settlement broker shall,
11 in a separate document that is signed by the viator and the viatical
12 settlement provider or viatical settlement broker, disclose the following
13 information to the viator not later than the date of application:
14 (1) Possible alternatives to viatical settlement contracts, including
15 accelerated benefits or policy loans offered by the issuer of the
16 life insurance policy.
17 (2) Federal and state tax consequences that may result from



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entering into a viatical settlement contract, and that the viator should seek assistance from a professional tax advisor.

(3) Possible:

(A) adverse effect on eligibility for; or

(B) interruption of assistance provided by;

medical or public assistance programs as a consequence of entering into a viatical settlement contract, and that the viator should seek advice from the appropriate government agencies.

(4) The viator's right to rescind a viatical settlement contract as provided in section 21 of this chapter.

(5) The amount of any fees, **commissions, deferred compensation, or co-brokering fees** paid by a viatical settlement provider to a viatical settlement broker.

(6) A statement that proceeds of the viatical settlement could be subject to claims of creditors.

(7) A statement that:

(A) entering into a viatical settlement contract may cause other rights or benefits under the policy, including conversion rights, waiver of premium benefits, family riders, or coverage of a life other than the insured, to be forfeited by the viator; and

(B) the viator should seek advice from a financial advisor.

(8) The procedure for contacts with the insured.

(9) That the proceeds of the viatical settlement will be transferred to the viator as provided in section 24.2 of this chapter.

(10) A statement containing the following language:

"All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years."

(11) That the insured may be contacted by the viatical settlement provider or viatical settlement broker to determine the health status of the insured in accordance with section 24.9 of this chapter.

(c) A viatical settlement provider or viatical settlement broker shall, in a separate document that is signed by the viator and the

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viatical settlement provider or viatical settlement broker, disclose the following to the viator:

(1) Not later than twenty-four (24) hours after the viatical settlement provider or viatical settlement broker receives or makes each offer, all offers received or made by the viatical settlement provider or viatical settlement broker with respect to the life insurance policy that is the subject of a potential viatical settlement contract.

(2) Before a viatical settlement contract is signed, the amount and source of any remuneration offered or received by the viatical settlement provider or viatical settlement broker in exchange for making a determination concerning which offer described in subdivision (1) to pursue for the viatical settlement contract.

(c) (d) The viatical settlement provider shall disclose the following information to the viator, conspicuously displayed in the viatical settlement contract or in a separate document signed by the viatical settlement provider and the viator, before a viatical settlement contract is signed:

(1) Any affiliation between the viatical settlement provider and the insurer that issued the life insurance policy or certificate that is the subject of the viatical settlement contract.

(2) The name, address, and telephone number of the viatical settlement provider.

(3) If the life insurance policy or certificate that is the subject of the viatical settlement contract was issued as a joint policy or includes family riders or any coverage of an individual other than the insured:

(A) the possible loss of coverage of the other individuals under the policy or certificate; and

(B) that the viator should consult with the viator's insurance producer or the insurer that issued the policy or certificate for advice concerning the proposed viatical settlement contract.

(4) The:

(A) dollar amount of the current death benefit payable to the viatical settlement provider; and

(B) if known, the:

(i) availability of any additional guaranteed insurance benefits;

(ii) dollar amount of any accidental death and dismemberment benefits; and

(iii) viatical settlement provider's interest in the benefits

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described in items (i) and (ii);
under the policy or certificate.

(5) The:

(A) name, business address, and telephone number of the
trustee or escrow agent described in section 24.2 of this
chapter; and

(B) right of the viator or insured to inspect or receive copies of
the relevant escrow or trust agreements or documents.

~~(d)~~ (e) A viatical settlement broker shall disclose to the viator,
conspicuously displayed in the viatical settlement contract or in a
separate document signed by the viatical settlement broker and the
viator before a viatical settlement contract is signed, the amount and
method of calculation of the viatical settlement broker's compensation.

~~(e)~~ (f) If a viatical settlement provider transfers ownership or
changes the beneficiary of a viaticated policy, the viatical settlement
provider shall, not more than twenty (20) days after the transfer or
change occurs, inform the insured of the transfer or change.

SECTION 2. [EFFECTIVE JULY 1, 2007] **IC 27-8-19.8-23, as
amended by this act, applies to a viatical settlement contract that
is entered into after June 30, 2007.**

SECTION 3. [EFFECTIVE UPON PASSAGE] **(a) A life insurance
company may not sell a life insurance policy that is financed with
the intent to be sold to investors that have no insurable interest in
the life of the individual who is the subject of the life insurance
policy.**

(b) This SECTION expires June 30, 2012.

SECTION 4. **An emergency is declared for this act.**

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